

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of:

The Communications Assistance	)	
for Law Enforcement Act	)	CC Docket No. 97-213
of the Communications Act	)	
	)	
Petition for the Extension	)	
of the Compliance Date	)	
Under Section 107 of the	)	
Communications Assistance	)	
for Law Enforcement Act	)	
by AT&T Wireless, Inc.,	)	
Lucent Technologies, Inc.,	)	
and Ericsson Inc.	)	
	)	
Petition for Rulemaking	)	
Under Section 1006 of the	)	
Communications Act of 1934,	)	
as amended, and Section 107	)	
of the Communications	)	
Assistance for Law	)	
Enforcement Act to Resolve	)	
Technical Issues and	)	
Establish a New Compliance	)	
Schedule: Petition for	)	
Rulemaking of the Tele-	)	
communications Industry	)	
Association	)	

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MAY - 8 1998

U.S. DEPARTMENT OF JUSTICE  
FEDERAL BUREAU OF INVESTIGATION

To: The Commission

COMMENTS OF THE RURAL CELLULAR ASSOCIATION

The Rural Cellular Association ("RCA"), hereby responds to the Commission's request for comments in the above-captioned docket,<sup>1</sup> and submits these comments in support of the Petition for Extension of the Compliance Date, filed by AT&T Wireless

<sup>1/</sup> See Public Notice, DA 98-762 (Apr. 20, 1998).

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Services, Inc., Lucent Technologies, and Ericsson, Inc.

("Petition of AT&T, Lucent, and Ericsson"),<sup>2</sup> and the Petition for Rulemaking filed by the Telecommunications Industry Association ("TIA").<sup>3</sup>

**I. INTRODUCTION.**

RCA is an association representing the interests of small and rural wireless licensees providing commercial services to subscribers throughout the nation. Its member companies provide wireless service to predominantly rural areas in which, collectively, more than 6 million people reside. RCA supports the request of the Petitioners to extend the compliance date of the Communications Assistance for Law Enforcement Act ("CALEA").<sup>4</sup> In support thereof, RCA shows the following:

**II. THE COMPLIANCE DATE FOR CALEA SHOULD BE EXTENDED BECAUSE FINAL STANDARDS ARE UNCERTAIN.**

CALEA requires telecommunications carriers to facilitate the ability of government to conduct wiretaps. In October 1994,

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<sup>2/</sup> In the Matter of Petition for the Extension of the Compliance Date Under Section 107 of the Communications for Law Enforcement Act by AT&T Wireless, Inc., Lucent Technologies, Inc., and Ericsson Inc.: Petition for Extension of Compliance Date, CC Docket 97-213 (Mar. 30, 1998) ("Petition of Service and Equipment Providers").

<sup>3/</sup> In the Matter of Section 1006 of the Communications Act of 1934, as amended, and Section 107 of the Communications Assistance for Law Enforcement Act to Resolve Technical Issues and Establish a New Compliance Schedule: Petition for Rulemaking of the Telecommunications Industry Association (Apr. 2, 1998) ("Petition of TIA").

<sup>4/</sup> Communications Assistance for Law Enforcement Act, Pub. L. 103-414, 108 stat. 4279 (1994), codified at 47 USC § 1001, et seq.

Congress ordered carriers -- both wireline and wireless -- to develop technical standards and hardware, and to implement technology necessary to meet CALEA requirements by October 25, 1998. The Federal Bureau of Investigation ("FBI") was directed to determine the capability requirements, i.e., the maximum number of simultaneous wiretaps a carrier would be required to accommodate.

In December 1997, TIA and the Alliance for Telecommunications Industry Solutions published J-STD-025.<sup>5</sup> J-STD-025 is an interim industry standard that defines the services and features carriers must implement in order to support government wiretaps. The standard is intended to assist carriers in meeting the capacity requirements of CALEA.

On March 26, 1998, the Center for Democracy and Technology ("CDT") filed a petition for rulemaking,<sup>6</sup> requesting the Commission to intervene in the CALEA proceeding. CDT argued that both the interim standard of JT-STD-025 and the additional requirements sought by the FBI failed to protect privacy rights and went beyond the scope of wiretaps permitted by CALEA.

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<sup>5</sup>/ "Lawfully Authorized Electronic Surveillance - JT-STD-025," Telecommunications Industry Association and Committee T-1 (Alliance for Telecommunications Industry Solutions) (Dec. 5, 1997).

<sup>6</sup>/ In the Matter of Communications Assistance for Law Enforcement Act: Petition for Rulemaking Under Sections 107 and 109 of the Communications Assistance for Law Enforcement Act of the Center for Democracy and Technology (Mar. 26, 1998).

On March 27, 1998, the FBI and the Department of Justice ("DOJ") filed a joint petition for expedited rulemaking,<sup>7</sup> asking the Commission to supplement what the FBI and DOJ argued were inadequate technical requirements and standards of JT-STD-025. The FBI and DOJ, however, requested the Commission to leave JT-STD-025 in effect, and to provide 18 months after the Commission's rulemaking decision for carriers to meet new technical requirements that might be adopted.

On April 2, 1998, TIA filed a petition for rulemaking, asking the Commission to: (1) suspend enforcement of CALEA until the Commission issues a decision; (2) allow 24 months for compliance after a decision is issued; (3) address expeditiously the issues raised in the proceeding; and (4) remand any technical issues to the TIA industry committee.

RCA supports the petition of TIA for suspension of CALEA enforcement. As demonstrated by the record summarized above, the standards that carriers will be required to meet have not yet been finalized. Further, the recommendation of the FBI that the industry standard JT-STD-025 be utilized as an interim standard until the final requirements are adopted sets the stage for enormously wasteful financial expenditures on the part of carriers. Under the FBI and DOJ proposal, carriers might be

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<sup>7</sup>/ In the Matter of the Establishment of Technical Requirements and Standards for Telecommunications Carrier Assistance Capabilities Under the Communications Assistance for Law Enforcement Act: Joint Petition for Expedited Rulemaking of the Federal Bureau of Investigation and the Department of Justice (Mar. 27, 1998).

required to install upgraded hardware and software in order to meet the interim standard, but may find it necessary soon thereafter to install newer hardware or software necessary to meet final CALEA requirements. This wasteful duplication would impose undue financial and administrative burdens on carriers. The Commission should not require carriers to meet interim standards that may be replaced by permanent requirements, and which could render newly-installed equipment obsolete. Rather, the Commission should, as requested by TIA, suspend enforcement of CALEA until final standards are adopted.

In addition to the uncertainty regarding the technical requirements, significant questions also exist regarding the availability of hardware and software necessary to implement network upgrades that meet the interim standard. The major equipment manufacturers also seek an extension of time, arguing that

          further proceeding with current development in the face of the unstable industry standard would expose the vendors to potentially enormous expense of money and engineering resources because any modification to the existing industry standard could require significant changes in Lucent's or Ericsson's individual CALEA solution.<sup>8</sup>

Carriers cannot reasonably be expected to meet CALEA requirements if the equipment necessary to implement those upgrades is not readily available.

RCA recommends that the Commission extend the implementation date in order to ensure that the final requirements of CALEA are

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<sup>8</sup>/ Petition of AT&T, Lucent, and Ericsson at 7.

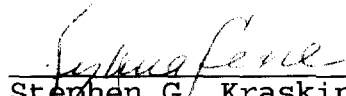
established and implemented in an efficient manner. The uncertainty regarding the final nature of CALEA requirements warrants a suspension of the October 25, 1998, compliance date until the later of October 20, 2000, or 24 months following the adoption of final standards.<sup>9</sup> Given the uncertain availability of hardware and software solutions necessary to apply network upgrades, and the unduly wasteful expenditure necessary to meet interim standards, deferral of the implementation deadline is the only rational solution.

### III. CONCLUSION.

For the reasons stated above, RCA supports the respective Petitions of AT&T Wireless, Lucent Technologies, and Ericsson, Inc., and of TIA, and requests that the Commission extend the compliance date of CALEA.

Respectfully submitted,

The Rural Cellular Association

  
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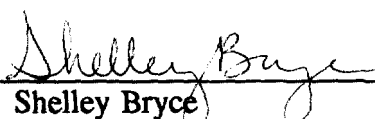
May 8, 1997

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<sup>9/</sup> See Petition of AT&T, Lucent, and Ericsson at 4, and Petition of TIA, at 8.

## **CERTIFICATE OF SERVICE**

I, Shelley Bryce, of Kraskin, Lesse & Cosson, LLP, 2120 L Street, NW, Suite 520, Washington, DC 20037, hereby certify that a copy of the foregoing "Comments of The Rural Cellular Association", was served on this 8th day of May 1998, by first class, U.S. Mail, postage prepaid to the following parties:

  
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